

**Submission
No 45**

**INQUIRY INTO CORONIAL JURISDICTION IN NEW
SOUTH WALES**

Name: Mark McKenzie
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The Director
Select Committee into the coronial jurisdiction in New South Wales
Parliament House
Macquarie Street, Sydney NSW 2000.

Dear Hon Adam Searle MLC,

Submission to the NSW Select Committee Inquiry into the coronial jurisdiction in New South Wales

My son Todd McKenzie was shot and killed by NSW police on 31 July 2019.

For many years Todd had been mentally ill, and it was his illness that brought police to surround his house at Taree the day and night of his death. I appreciate that this inquiry is not designed to go into the failures that led to Todd's death, but rather, to look at failings in the coronial system.

Despite over two years passing since Todd's death, as his father I still remain deprived of important information about what happened on the night of his death. I would like to set out for the Committee some of the things that have caused so much anguish to myself and my family since Todd's death, as relate to the coronial system.

At an early stage, we were approached by critical incident investigators, from NSW Police, who took detailed statements. Those senior officers have maintained regular contact with me during the time since Todd's death, which I have appreciated. They collected a large number of statements in the month after Todd passed away, and had compiled a brief of evidence that was provided to the coroner in late January 2020. The brief contained a vast amount of material, including all Todd's medical records, transcripts of interviews with many police officers (identified as involved officers), and statements from neighbours and family members, together with senior police. There was also, of course, a wide array of electronic material collected and provided to the coroner, which included body worn video taken on the day.

Despite all this material being delivered to the coroner and to the Crown solicitors office in early to mid 2020, still to this day, the most crucial parts of the brief have not been provided to either myself or other family members, so that we can understand what happened to Todd.

There have been massive delays in getting us any information, despite the fact that my legal representatives from Legal Aid NSW have been asking that the brief materials be served since April 2020. Months and months have gone by with promises that information would be provided, and nothing being provided. We were lucky enough to get a copy of one of the officer in charge statements at an early stage. However, apart from that we have been deprived for over a year of important information and details.

We have been promised since half way through last year 2020 that we would get parts of the brief, and yet there have been huge delays. Eventually, when a part of the brief was provided earlier this year, it was the most trivial and irrelevant statements that could have been provided to us. It has felt

like a cover-up. I have been disgusted by the delays, which feel like a deliberate attempt to withhold information from our family.

A significant hurdle and delay in the process has been due to the Commissioner of Police seeking protective orders over large parts of the brief of evidence. As a family member, it is simply ridiculous that we get prevented from knowing the details of what happened that night, literally for years, because of this process. There have been what seem like endless directions hearing before the coroner to try and sort out the protective orders.

Worse still, the matter was listed for hearing to start on 20 September 2021 and to run for three weeks. This was a chance for us to hear the evidence and at least start to move on. Due to delays by the Commissioner of Police and his legal representatives, the coroner eventually had to postpone that date. We still don't have a new date, but my lawyer thinks it is unlikely to be heard before the middle of next year. The delays by the Commissioner pretty much went unexplained, and it seemed like the interests of the family always get pushed to one side, whilst the Police get to do what they like.

The coroner has been very supportive of our position and wants us to get the information, but it simply has not been happening. I would not wish this process on anyone, or at least would hope that changes can be made that might get information to families quicker. The pain of not knowing what happened, and not knowing why, is hard to bear. The times when I wanted to absorb myself in the detail, and I had energy, the information hasn't been there for me. And then after a while, the process itself becomes draining and the trauma of what happened catches up. The effect of the process itself becomes stressful. There hasn't been any support for me, apart from my lawyer, and that also makes things hard. The system could be improved by ordering the Commissioner of Police to do things quickly. It does not make sense having these delays when the investigating officers have wanted to get the information out.

One positive of the process has been our legal representation from Legal Aid. Our lawyer has acted as a voice for the family, continually pushing for us to get answers and information. I have found it really important to talk through things with him. We have tried to raise issues about access to mental health care in the country, and the need for police to involve families in incidents where they know better, and where someone's mental health is involved. I have done a lot of work on contacting local MPs and the Minister for Mental Health, because I know in my heart that the police need to change the way they approach people with mental illness. One of the main things I have campaigned for is the introduction of PACER to all regional areas, because again it seems we miss out in the regions on what people get in the cities. Some of these things could have saved Todd's life.

Thank you for reading my submission and I hope that something good comes out of this inquiry so that other families don't need to go through what we have experienced. We will keep waiting for the inquest to happen, and to get more information about Todd's death. We hope that the inquest might also result in some positive changes for the mentally ill and their families.

Yours sincerely

Mark McKenzie